

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit: 1618

FRODE BRAKSTAD et al.

Examiner: Gigi Georgiana Huang

Serial No.: 10/596,224

Filed: June 5, 2006

For: FOOD AND FEED SUPPLEMENT AND ITS USE

Attorney Docket No.: VITL 0101 PUSA

DECLARATION OF FRODE BRAKSTAD UNDER 37 C.F.R. 1.132

I, Frode Brakstad, hereby declare:

1. I am one of the co-inventors of the food and feed supplement described and claimed in the U.S. Patent Application Serial No.: 10/596,224, hereinafter "the Application."
2. I am an advanced technical R&D Manager of Vitality Innovation AS.
3. Vitality Innovation AS is a company that develops, produces and markets products that provide a basis for good health, vitality and high performance throughout the animals' lifetimes. At Vitality Innovation AS, specialist studies in the areas of bacteriology and canine and equine use have been carried out in collaboration with renowned research facilities and many products have been approved for use in animals by the Norwegian Food Safety Authority. For more information I refer the reader to www.vitalityinnovation.no.
4. I am qualified in food and feed supplement researching and testing. I hold a Ph.D. in chemistry from the Institute of Chemistry, University of Bergen and have over 20 years experience in analytical chemistry with a particular interest in food and supplement, animal physiology, and sports nutrition. I consider myself a person skilled in the art of the research, design, and manufacturing of food and feed supplement products.
5. I earnestly understand and believe that the concept of "dry weight" with respect to the determination and the application thereto is well known in the art. In fact, the meaning of "dry weight" and the calculation thereof can be easily found in encyclopedias and on the internet.
6. The term "dry weight", as used in biology, food science, and other fields, refers to the dry matter mass of a composition when completely dried. For example, the dry matter of a piece of bread is its solids, i.e. all its constituents excluding water. The dry matter constituents of the bread may include proteins, fats, sugars, and minerals.
7. By way of example, a plant, animal, or other composition containing a chemical constituent of interest is dried to remove all water from the composition. The amount of the

chemical constituent found in subsequent analysis is then expressed as weight of the chemical constituent divided by weight of the dried composition which once contained the chemical constituent.

8. To remove all the water, various methods can be used. For example, a composition may be heated upon a certain temperature, such as above 100 degrees Celsius, to evaporate the water molecules out of the composition. Similarly, a composition may also be subject to a desiccating compartment to dry out the water molecules over time or be subject to a drying oven with medium to high heat if the composition is relatively heat resistant. Requisite completeness of the drying is ascertained when weight of the composition due to solvent removal such as water removal no longer changes.

9. Calculations involving dry weight of a composition are routinely carried out in various research laboratories, nutrition clinics, and animal study facilities that I know of and or am affiliated with.

10. I, therefore, submit that the extent of dryness and the determination of dry weight, in practicing one or more embodiments of the present invention, can be readily ascertained base on the known knowledge in the art as stated above.

11. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application and any patent issued thereon.

Signed:



Date:

